

REMARKS/ARGUMENTS

In response to the Office Action mailed November 19, 2007, Applicant requests reconsideration. No claims are added or cancelled so that claims 1 and 4-8 remain pending.

Claim 8 is amended for clarity and conformity with claims in the related co-pending patent applications.

In response to the provisional double patenting rejection based upon co-pending U.S. Patent Application No. 10/735,822, Applicant submits a Terminal Disclaimer with the appropriate fee. This step is taken merely to expedite the prosecution and is not a concession that the claims now pending in this patent application are obvious over the claims now or later pending in the other patent application, or vice versa.

The invention, as well understood throughout the protracted prosecution of this patent application, concerns a downloading service system for managing downloading services within a hotel that includes a casino. Users of the hotel and casino services are issued a house card through a house card issuing means. That card identifies the particular user to whom the card is issued. The system includes an intra-service server that transmits data needed for playing a casino game when a download of that data is requested. A casino data reception means receives that casino data that is downloaded. A service management server of the system manages the casino deposit that is made by a user, enabling the user to utilize casino services based upon the house card that carries information concerning the casino deposit.

Of particular importance are restrictions that are placed upon the use of the casino services depending upon the restrictions that may be placed upon a casino deposit. As stated in claim 1, those conditions are applied if the casino deposit accumulated over time exceeds an upper limit. This usage restriction is intended to prevent damage to the casino, for example, by some person who has a legitimate or illegitimate winning streak, so that the casino does not go bankrupt. Claim 8, a

dependent claim, imposes a similar usage restriction, preventing use of the casino services if the casino deposit falls to zero. Obviously, this limit prevents damage to the casino when the user lacks money for purchasing entry into a game.

Claim 4 provides for updating of the casino data through the intra-service server in response to an update request. According to claim 5, the system also includes a multi-media server for transmitting content data, for example for playing a casino game, to the reception means and a house card server for storing service data indicating downloading of the content data. Dependent claim 7 describes the system as further including an action history management server that manages actions of the user by obtaining the user information, i.e., essentially tracking the user.

Claims 1 and 8 were rejected as indefinite, apparently because of the usage restriction condition of claim 1 refers to a casino deposit exceeding an upper limit whereas claim 8 refers to a casino deposit reaching zero. As best understood, it is the Examiner's position that the upper limit could be zero or even negative or a function of time and therefore inconsistent with the zero value casino deposit referred to in claim 8. This rejection is respectfully traversed.

With respect, the Examiner's position and interpretation of the claim language is not consistent with the disclosure of the patent application or a realistic understanding of what is disclosed there. The invention concerns gambling in a casino. It is easy to understand that when a deposit that is drawn upon to participate in casino games reaches zero that the right to continue participation is lost. Further, as previously explained, the upper limit on the casino deposit that is accumulated over time, as described in claim 1, could not mean, particularly in combination with claim 8, that that upper limit is less than zero or zero. The context of the pertinent disclosure is set out in the patent application at page 15 in a single paragraph beginning in line 5. That paragraph describes both the upper limit usage restriction and the usage restriction that applies when the casino deposit reaches zero. The final two sentences of that paragraph must be read in the same context because they deal with the same subject matter and are located at the same place within the patent

application. The first of those two sentences describes the restriction of preventing a user from receiving casino services when the deposit reaches zero. The second of those sentences describes imposition of a usage restriction when the accumulated deposit over a period of time has exceeded an upper limit. It is impossible to interpret that paragraph and those two sentences coherently except as describing upper and lower limits beyond which usage restrictions apply. There is no ambiguity and the assertion to the contrary in the rejection of claim 1 as indefinite is inconsistent with giving the claim language the broadest possible interpretation *consistent with the disclosure of the patent application*. Upon reconsideration, the rejection should be withdrawn.

Claims 1 and 4-8 were rejected as unpatentable over LeMay et al. (U.S. Patent 7,198,571, hereinafter LeMay) in view of certain Missouri gaming rules (hereinafter Missouri). This rejection is respectfully traversed.

At page 5 of the Office Action, it is conceded that LeMay does not describe the incorporation of any usage restriction on the casino services when a deposit accumulated over a time period has exceeded an upper limit. However, according to the rejection, regulatory codes, presumably meaning Missouri, "that would be implemented to meet the needs of the current legal regulations ... which is an old and well-known function in the gaming industry." As already pointed out in previous Responses, the assertion that Missouri, the only source of information relied upon in the rejection to supply the part of the claims acknowledged to be missing from LeMay, fails to supply the disclosure needed to produce *prima facie* obviousness with respect to any of the pending claims.

Only a single paragraph of the Missouri gaming rules deals with the objective invoked by the Examiner in rejecting the claims.

"(1) The Class A licensee of an excursion gaming boat shall insure through internal controls that no person shall lose more than five hundred dollars (\$500) during each gambling excursion. The internal controls shall specify the manner in which the five hundred dollar (\$500) limit is enforced."

The foregoing two-sentence paragraph is the only part of Missouri that includes anything even arguably relating to the invention. Applicant readily agrees with the Examiner that Missouri specifies a stop-loss provision for a gambler, at least for each gambling excursion. However, the limitation of claim 1 at issue has nothing to do with stopping losses by a gambler. That limitation of claim 1 relates to stopping accumulation of excessive casino deposits. Accordingly, the commentary at pages 5 and 6 of the Office Action has no relationship to the invention as defined by claim 1 and cannot demonstrate *prima facie* obviousness of that claim. Upon reconsideration, the rejection should be withdrawn.

The Response to Arguments at pages 7 and 8 of the Office Action have been given careful attention. According to those comments, the argument previously presented and repeated above concerning what is disclosed in LeMay and Missouri “that has been put forth by applicants’ representative is a vast mischaracterization.” With respect, this assertion is perilously close to a violation of the requirement of 37 CFR 1.3 for the conduct of prosecution with courtesy and decorum. The argument previously made and repeated here is not a mischaracterization of any kind. The argument is the result of a consistent interpretation of the specific disclosure of the prior art without an attempt to read into the prior art the invention claimed. The Examiner is requested to reconsider his position and, even if the position is maintained, to restate his view in a way that is free of calumny and that is consistent with the requirements of U.S. practice.

In further reply, it is noted that the Examiner asserts that it would have been obvious in view of Missouri to produce a gaming system that tracks player accounts so that casino deposits do not exceed an upper limit of \$500 over a period of time. This statement is incorrect and not suggested anywhere in LeMay or Missouri. Missouri clearly requires, which can be confirmed by consulting either the original document or the sole pertinent paragraph that is reproduced verbatim above, the operator of each casino river boat in the state of Missouri take steps so that no gambler

loses more than \$500 during any one excursion. There is no express or implied description of limiting the amount any gambler can win. In fact, such a regulation would be inconsistent with the concept of encouraging gambling by pointing to a gambler who wins a large amount of money. For example, it is well known in the art that slot machines, when paying a jackpot, trigger various visual and aural alarms to draw attention to the payout. The purpose of this attraction is to encourage others to attempt to win a similar jackpot and to spend money in gambling. Thus, an upper limit on an accumulated deposit as in claim 1 is counterintuitive. Moreover, both LeMay and Missouri, contrary to the rejection, never mention or even slightly suggest that such an upper limit restriction should be present. The rejection simply is without factual foundation and, therefore, cannot meet the legal requirement for establishing *prima facie* obviousness.

With respect to the rejection based upon LeMay and Missouri, there is no comment with respect to dependent claims 4-8. Those claims are allowable because of the clear distinction between claim 1 and the purported combination of prior art publications.

Applicant notes the reliance on Rowe (published U.S. Patent Application 2002/002075) in the rejection of claims in co-pending application 10/735,812. The reliance on Rowe has no application here. This rejection is respectfully traversed.

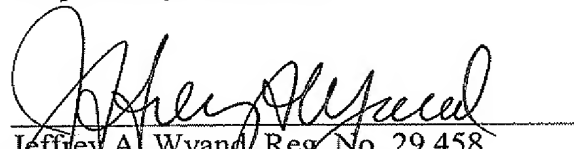
Rowe describes a technique for establishing multiple accounts, remotely accessible, that may be merged and divided, and in which balances may be transferred between accounts. These accounts relate to the accumulation of points and/or money that may be awarded in response to the successful playing of various games. Cards may be issued that provide access to the accounts and in which running balances can be maintained. However, there is no description in Rowe of imposing usage restrictions based upon upper and lower limits of balances, except for the closing of accounts for which the balances reach zero. Paragraphs [0117]-[0121] of Rowe are stated to establish maximum limits for the user in order to allocate and manage balances of the respective accounts.

Only paragraph [0117] of Rowe has even superficial relationship to claim 1. That paragraph states that the access media, i.e., cards, may have a maximum value. What that statement means is explained in paragraphs [0159] and [0160] of Rowe. Those paragraphs explain that an account, not a card, may permit only a predetermined amount of withdrawals over a period of time. The second of the paragraphs states that the account may have an upper deposit limit. Even that limit is not absolute because the paragraph mentions winning a prize that, when added to the existing balance, exceeds the maximum card balance. In that instance, the card balance is simply permitted to exceed the limit.

Rowe only describes limiting the amount of a deposit that might be accumulated over time. Limiting the amount deposited has nothing to do with a usage restriction on casino services. Rowe contains no description of or suggestion for limiting the further playing of games based upon reaching the deposit limit in the Rowe system. Thus Rowe never describes imposing a usage restriction when the deposit limit is reached and cannot suggest the claimed invention.

For the foregoing reasons claims 1 and 4-8, are patentable over the prior art so that, upon reconsideration, all rejections should be withdrawn and those claims should be allowed.

Respectfully submitted,



Jeffrey A. Wyand, Reg. No. 29,458
LEYDIG, VOIT & MAYER
700 Thirteenth Street, N.W., Suite 300
Washington, DC 20005-3960
(202) 737-6770 (telephone)
(202) 737-6776 (facsimile)

Date:

JAW:ves

January 15, 2008